

REMARKS OF HON. HENRY A. WAXMAN

WESTERN CABLE SHOW

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I am delighted to share with you this morning some thoughts on legislative and political prospects in Washington that are of great importance to the cable industry.

Although one reads of apprehension about the future in some quarters of the cable community, I ^{spoke} here, at this immensely successful gathering, a renewed sense of optimism.

Difficulties cable has faced over the past year -- particularly in terms of revenue^s from advertising, and the prospects of certain specialized programming channels -- have more to do with the protracted recession than in any inherent structural weaknesses in the industry.

The simple fact is that cable remains the most wide-ranging and efficient means of delivering information and entertainment programming to the American people. Cable dwarfs its competitors through the very abundance of channel capacity available. The intense interest of cities without cable to expedite and complete franchise arrangements -- which will result in doubling the current number of subscribers by 1990 -- demonstrates that this medium is the medium of the future.

This trend, which has characterized cable's growth since the mid-1970s, should cause policy makers in Washington to reevaluate their perspective on traditional notions of how, and to what extent, the industry should be regulated.

Cable should no longer be viewed as a discrete medium, standing on its own, subject to regulatory constraints as if it were a utility.

Instead, we should view cable as part of a larger video market, in which it competes for audiences with the alphabet technologies of STV, MDS, SMATV, DBS, and of course with traditional over-the-air commercial broadcasting.

In such a video marketplace, normal economic dynamics will work to promote a competitive rate structure, and to drive the industry to provide the most extensive and diverse programming services -- and can do so more effectively than arbitrary regulation.

Indeed, it could have been argued -- as I have in the past -- that cable needed legislation establishing a national mandate to foster the industry's growth. For a variety of reasons -- primarily because such efforts were suggested in the context of more sweeping reappraisals of the Communications Act -- such legislation never emerged. It is a tribute to cable that you not only survived attempts by broadcasters to dominate and stifle your growth in the absence of such legislation, but that you prevailed notwithstanding such pressures.

~~The new legislative challenge, accordingly, is to help promote the competitive marketplace which has been created largely because of your efforts.~~

Because of cable's distinctive experiences at the hands of the broadcasting industry, cable has been in the forefront -- philosophically and politically -- of encouraging the development of new technologies, even if they pose a competitive threat to your services.

Cable has never sought the refuge of protectionism -- such as by opposing the development of DBS -- but remained in the vanguard of the defense against competitive abuses by monopoly interests -- such as outlining

~~the~~ dangers posed by AT&T's entry into mass media services.

Your progressive attitude toward competition should force us to review the restrictions on broadcast-cable crossownership. As I mentioned, it is my belief that the current economic difficulties facing cable are the result of ~~the~~^h recession. Some operators have been squeezed between the demands of your capital-intensive industry and the commitments made under your franchises at a time when the cost of capital and debt are at intolerable levels.

It is in the public interest for cable to grow and we, in Congress, should help ~~cable~~^{it} find new tools to cope with changing economic and competitive conditions. Obviously, the broadcasting industry, with its enormous revenues, is a source of capital that should not be foreclosed arbitrarily.

Existing crossownership restrictions were imposed in order to promote competition and prevent an incipient technology from being stunted and swallowed whole by broadcast interests. These rules have served their purpose well. Cable has developed to the point where it can no longer be ~~bought-out~~ or forced out by the networks or other broadcasters.

Indeed, cable's very maturation has forced the networks in particular to reassess their entire attitude toward cable. Their investment in programming services -- such as ABC's ARTS and CBS Cable -- indicate, despite the latter's demise, their desire to break into this market because it is good business for them, while enhancing your programming. Similarly, their desire to invest in cable franchises should be seen as holding the potential to contribute to cable's growth.

Rather than being ^{victim} ~~seen~~ as a threat, the investment by broadcasters

in cable may well be a development that could strengthen the financial viability of the industry. But it should be on terms and conditions you are completely comfortable with.

I would welcome your thoughts on this issue.

For the immediate future, however, all of us are concerned over the fate of HR 5949, the cable-copyright legislation that finally cleared the House in late September.

This bill embodies a three-cornered compromise which grants cable unlimited access to distant signals, protects syndicated exclusivity, and provides for a certain degree of must-carriage for local stations.

A simple glance at this lengthy and complex bill will highlight the fragility of the compromises that have been made. This measure, which is in the most delicate balance, is now before the Senate.

It is my understanding that the opposition of certain interests of organized sports -- which want greater protections against cable's broadcast of distant sports events -- may frustrate enactment in the post-election session.

I find it hard to accept that in this ^u ~~Autumn~~ of our discontent, when million of fans have been deprived of an American pastime, that the self-interest of professional sports could prevent the passage of legislation intended to give viewers across the country access to as many sports events as possible.

Professional sports are rapidly squandering their moral capital with the American people, and are close to overdrawing their account.

I pledge to help you in any way to obtain final passage of this urgent legislation.

However, such a change in policy must not be pursued at your expense. Rather,

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Finally, I know many of you are interested in the legislation authored by Senator Goldwater, S 2172. I believe it contains positive features. As I stated earlier, the degree of regulation of cable should be tempered by an appreciation of cable's role in a competitive marketplace.

I am, moreover, concerned that deficit-laden cities are tempted to view cable as the ticket out of their fiscal crunch.

The simple fact is that cable operators and franchising authorities need each other. The challenge is to create a constructive partnership, not engage in bitter confrontation and recrimination.

I will be reviewing Senator Goldwater's legislation with these concerns in mind. The interests of the industry and the cities must be brought together into reasonable balance.

I promise to work closely with you on this in the next Congress.

Let me conclude simply by stating that no matter what the challenges ahead, you could not have a finer friend or ally than Tim Wirth, the Chairman of the Subcommittee. He has been an outstanding leader and a superb legislator. All of us are indebted for his commitment and vision.

Please accept my thanks again for asking me to join you today.